

South Australia

Health Practitioner Regulation National Law (South Australia) (Amendment of Law) Regulations 2023

under the *Health Practitioner Regulation National Law (South Australia) Act 2010*

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Preamble

- 1 Section 4 of the *Health Practitioner Regulation National Law (South Australia) Act 2010* provides that if the Parliament of Queensland enacts an amendment to the *Health Practitioner Regulation National Law* set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland (the ***Queensland Act***), the Governor may, by regulation, modify the *Health Practitioner Regulation National Law (South Australia)* text to give effect to that amendment as a law of South Australia.

- 2 The Parliament of Queensland has enacted the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2022* to amend the Queensland Act and the amendments to the *Health Practitioner Regulation National Law (South Australia)* text set out in Part 2 of these regulations give effect to those Queensland amendments.
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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Health Practitioner Regulation National Law (South Australia) (Amendment of Law) Regulations 2023*.

2—Commencement

These regulations come into operation on 15 May 2023.

3—Amendment provisions

Pursuant to section 4(4) of the Act, the *Health Practitioner Regulation National Law (South Australia)* text is amended as specified in Part 2 of these regulations.

Part 2—Amendment of *Health Practitioner Regulation National Law (South Australia)*

4—Amendment of section 5—Definitions

- (1) Section 5—after the definition of *police commissioner* insert:

practice arrangement, between a registered health practitioner or unregistered person, and an entity—

- (a) includes—

- (i) a contract of employment, contract for services or another arrangement or agreement between the practitioner or person and the entity in relation to the provision of services; or
- (ii) an agreement for the practitioner or person to provide services for or on behalf of the entity, whether in an honorary capacity, as a volunteer or otherwise, and whether or not the practitioner or person receives payment for the services; but

- (b) does not include a contract or agreement not directly related to the provision of a health service.

- (2) Section 5—after the definition of *registration status* insert:

regulatory body, in relation to a person, means any of the following—

- (a) the National Agency;

- (b) for a person who is or was a registered health practitioner—a National Board for a health profession in which the person is or was registered.
- (3) Section 5—after the definition of *relevant fee* insert:
 - relevant provision*—
 - (a) for Division 7A of Part 8, see section 159B; or
 - (b) for Division 7B of Part 8, see section 159P.
- (4) Section 5—after the definition of *unprofessional conduct* insert:
 - unregistered person* means a person who is not registered, or whose registration is suspended, under this Law.

5—Amendment of section 52—Eligibility for general registration

Section 52(2)—delete "by imposing conditions on the registration under section 83." and substitute:

by doing either or both of the following—

- (a) imposing conditions on the registration under section 83;
- (b) accepting an undertaking from the individual under section 83A.

6—Amendment of section 57—Eligibility for specialist registration

Section 57(2)—delete "by imposing conditions on the registration under section 83." and substitute:

by doing either or both of the following—

- (a) imposing conditions on the registration under section 83;
- (b) accepting an undertaking from the individual under section 83A.

7—Amendment of section 62—Eligibility for provisional registration

Section 62(2)—delete "by imposing conditions on the registration under section 83." and substitute:

by doing either or both of the following—

- (a) imposing conditions on the registration under section 83;
- (b) accepting an undertaking from the individual under section 83A.

8—Amendment of section 65—Eligibility for limited registration

Section 65(2)—delete "registration in the profession by imposing conditions on the registration under section 83." and substitute:

limited registration in the profession by doing either or both of the following—

- (a) imposing conditions on the registration under section 83;
- (b) accepting an undertaking from the individual under section 83A.

9—Amendment of section 74—Unsuitability to hold non-practising registration

Section 74—after paragraph (a) insert:

- (aa) the person’s registration has been withdrawn by a National Board under section 85A; or

10—Insertion of section 83A

After section 83 insert:

83A—Undertakings at registration

If a National Board decides to register a person in a health profession for which the Board is established, the Board may accept any undertaking from the person the Board considers necessary or desirable in the circumstances.

11—Insertion of Part 7 Division 6A

Part 7—after Division 6 insert:

Division 6A—Withdrawal of registration

85A—Power to withdraw registration

A National Board may withdraw the registration of a registered health practitioner registered in a health profession for which the Board is established if the Board reasonably believes the practitioner’s registration was improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

85B—Registered health practitioner may make submissions about proposed withdrawal of registration

- (1) If a National Board is proposing to withdraw a registered health practitioner’s registration under section 85A, the Board must give the practitioner written notice of the proposal.
- (2) The notice must—
 - (a) state the reasons for the proposal; and
 - (b) invite the registered health practitioner to make a written or verbal submission to the National Board, within the reasonable time stated in the notice, about the proposal.
- (3) This section does not prevent a National Board from taking immediate action under Division 7 of Part 8 in relation to the registered health practitioner.

85C—Decision about withdrawal of registration

After considering any submissions made in accordance with a notice under section 85B, the National Board must—

- (a) decide—
 - (i) the registration was not improperly obtained on the ground the registered health practitioner or someone else gave the Board information or a document that was false or misleading in a material particular; and
 - (ii) no further action is to be taken; or
- (b) decide the registration was improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular and do one or more of the following—
 - (i) withdraw the practitioner’s registration;
 - (ii) refer the matter to a responsible tribunal;
 - (iii) take other appropriate action under Part 8.

85D—Notice to be given to registered health practitioner

- (1) The National Board must give the registered health practitioner written notice of the Board’s decision under section 85C as soon as practicable, but no later than 30 days after making the decision.
- (2) If the National Board decides to withdraw the registered health practitioner’s registration, the notice must state—
 - (a) the reasons for the decision; and
 - (b) that the practitioner may appeal against the decision; and
 - (c) how the application for appeal may be made and the period within which the application must be made.

Note—

If, under section 85C(b)(ii) or (iii), the National Board decides to refer the matter to a responsible tribunal or take other appropriate action under Part 8, notice of the referral or other action will be given to the registered health practitioner under the relevant provision of Part 8.

85E—When decision takes effect

The decision by the National Board to withdraw a person’s registration takes effect on—

- (a) the day notice of the Board’s decision is given to the person; or
- (b) the later day stated in the notice.

12—Insertion of section 103A

After section 103 insert:

103A—Undertakings at endorsement

If a National Board decides to endorse the applicant's registration under section 102, the Board may accept any undertaking from the applicant the Board considers necessary or desirable in the circumstances.

13—Amendment of section 109—Annual statement

- (1) Section 109(1)(d)—delete paragraph (d) and substitute:
 - (d) if, during the applicant's preceding period of registration and because of the applicant's conduct, professional performance or health, the applicant was—
 - (i) disqualified under an agreement under section 92 of the *Health Insurance Act 1973* of the Commonwealth; or
 - (ii) subject to a final determination under section 106TA of the *Health Insurance Act 1973* of the Commonwealth that contained a direction under section 106U(1)(g) or (h) of that Act that the applicant be disqualified;
- (2) Section 109—after subsection (1) insert:
 - (1A) To avoid doubt, subsection (1)(d) applies only to the extent the applicant is not prohibited from disclosing information about the disqualification or final determination by the *Health Insurance Act 1973* of the Commonwealth.

14—Amendment of section 112—Decision about application for renewal

- (1) Section 112(2)—after paragraph (b) insert:
 - (ba) if the applicant failed to comply with any undertaking given by the applicant to the Board that was in effect during the applicant's previous period of registration or endorsement; or
- (2) Section 112(3)—after paragraph (b) insert:

and

 - (c) any undertaking given by the applicant to the Board that was in effect immediately before the renewal; and
 - (d) any undertaking given by the applicant to the Board that the Board considers necessary or desirable in the circumstances.
- (3) Section 112(3), note—after "registration" insert:

, or an undertaking given by the practitioner to the Board,

15—Amendment of section 117—Claims by persons as to registration in particular profession or division

Section 117(3), note—after "practitioner" insert:

, or in some cases by a person who was a registered health practitioner,

16—Amendment of section 118—Claims by persons as to specialist registration

Section 118(2), note—after "practitioner" insert:

, or in some cases by a person who was a registered health practitioner,

17—Amendment of section 119—Claims about type of registration or registration in recognised specialty

Section 119(3), note—after "practitioner" insert:

, or in some cases by a person who was a registered health practitioner,

18—Amendment of section 126—Changing conditions on Board's initiative

(1) Section 126(1)—delete subsection (1) and substitute:

(1) This section applies if a National Board established for a health profession reasonably believes it is necessary to change a condition imposed on—

- (a) for a registered health practitioner registered in the health profession—the practitioner's registration or endorsement; or
- (b) for a student registered in the health profession—the student's registration.

(2) Section 126(6)—after "registration" insert:

or endorsement

19—Amendment of section 127—Removal of condition or revocation of undertaking

Section 127(1)—delete subsection (1) and substitute:

(1) This section applies if a National Board established for a health profession reasonably believes the following is no longer necessary—

- (a) for a registered health practitioner registered in the health profession—
 - (i) a condition imposed on the practitioner's registration or endorsement; or
 - (ii) an undertaking given to the Board by the practitioner;
- (b) for a student registered in the health profession—
 - (i) a condition imposed on the student's registration; or
 - (ii) an undertaking given to the Board by the student.

20—Amendment of section 130—Registered health practitioner or student to give National Board notice of certain events

- (1) Section 130—after subsection (2) insert:
- (2A) To avoid doubt, a registered health practitioner is not required to give the National Board written notice of an event within the meaning of paragraphs (e) or (f) of the definition of *relevant event* if the notification is prohibited by the *Health Insurance Act 1973* of the Commonwealth.
- (2) Section 130(3), definition of *relevant event*—delete the definition and substitute:
- relevant event*, in relation to a registered health practitioner, means—
- (a) the practitioner is charged with—
 - (i) a scheduled medicine offence; or
 - (ii) an offence punishable by 12 months imprisonment or more, whether in a participating jurisdiction or elsewhere; or
 - (b) the practitioner is convicted of or is the subject of a finding of guilt for—
 - (i) a scheduled medicine offence; or
 - (ii) an offence punishable by imprisonment, whether in a participating jurisdiction or elsewhere; or
 - (c) appropriate professional indemnity insurance arrangements are no longer in place in relation to the practitioner’s practice of the profession; or
 - (d) the practitioner’s right to practise at a hospital or another facility at which health services are provided is withdrawn or restricted because of the practitioner’s conduct, professional performance or health; or
 - (e) the practitioner is disqualified under an agreement under section 92 of the *Health Insurance Act 1973* of the Commonwealth because of the practitioner’s conduct, professional performance or health; or
 - (f) the practitioner is subject to a final determination under section 106TA of the *Health Insurance Act 1973* of the Commonwealth that contains a direction under section 106U(1)(g) or (h) of that Act that the practitioner be disqualified because of the practitioner’s conduct, professional performance or health; or
 - (g) the practitioner’s authority under a law of a State or Territory to administer, obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicines is cancelled or restricted; or
 - (h) a complaint is made about the practitioner to an entity referred to in section 219(1)(a) to (e); or
 - (i) the practitioner’s registration under the law of another country that provides for the registration of health practitioners is suspended or cancelled or made subject to a condition or another restriction.

relevant event, in relation to a student, means—

- (a) the student is charged with—
 - (i) a scheduled medicine offence; or
 - (ii) an offence punishable by 12 months imprisonment or more, whether in a participating jurisdiction or elsewhere; or
- (b) the student is convicted of or is the subject of a finding of guilt for—
 - (i) a scheduled medicine offence; or
 - (ii) an offence punishable by imprisonment, whether in a participating jurisdiction or elsewhere; or
- (c) the student’s registration under the law of another country that provides for the registration of students has been suspended or cancelled.

scheduled medicine offence means an offence against a law of a participating jurisdiction—

- (a) if—
 - (i) the law regulates the authority of registered health practitioners or students to administer, obtain, possess, prescribe, sell, supply or use scheduled medicines; and
 - (ii) the offence relates to registered health practitioners or students administering, obtaining, possessing, prescribing, selling, supplying or using scheduled medicines; but
- (b) does not include an offence declared or prescribed by a law of the jurisdiction not to be a scheduled medicine offence for the purposes of this Law.

21—Amendment of section 132—National Board may ask registered health practitioner for practice information

Section 132(4), definition of *practice information*—delete the definition and substitute:

practice information, for a registered health practitioner practising in the health profession for which the practitioner is registered, means each of the following, as it applies to the current practice, and all previous practices, of the profession by the practitioner—

- (a) if the practitioner is, or was, self-employed—
 - (i) that the practitioner is, or was, self-employed; and
 - (ii) the address of each of the premises at which the practitioner practises, or practised; and
 - (iii) if the practitioner practises, or practised, under a business name or names—each business name; and
 - (iv) if the practitioner shares, or shared, premises and the cost of the premises with other registered health practitioners—the names of the other registered health practitioners;

- (b) if the practitioner has, or had, a practice arrangement with one or more entities—the name, address and contact details of each entity;

Example of practice arrangement—

A physiotherapist practises, or practised, physiotherapy as a volunteer at a sporting club or charity under an arrangement with that entity.

- (c) if the practitioner practises, or practised, under a name or names that are not the same as the name under which the practitioner is registered under this Law—the other name or names.

22—Substitution of sections 138 and 139

Sections 138 and 139—delete the sections and substitute:

138—Application of Part to persons who are registered health practitioners

- (1) A notification may be made under this Part about, and proceedings may be taken under this Part against, a person who is a registered health practitioner in relation to behaviour that—
 - (a) occurs while the practitioner is registered in a health profession under this Law; or
 - (b) occurred before the practitioner was registered in a health profession under this Law; or
 - (c) occurred during any other period in which the practitioner was not registered in a health profession under this Law, including, for example, if the registration had ended or was cancelled, suspended or withdrawn.
- (2) A registered health practitioner’s behaviour that occurred at a time specified in subsection (1)(b) or (c) may not constitute—
 - (a) unsatisfactory professional performance; or
 - (b) unprofessional conduct, except as provided by section 139.

139—Proceedings in relation to practitioner’s behaviour while temporarily unregistered

- (1) This section applies if—
 - (a) proceedings are taken under this Part against a person who is a registered health practitioner; and
 - (b) the panel or tribunal is satisfied the behaviour to which the proceedings relate occurred—
 - (i) after the practitioner’s registration ended under section 108(2)(a); and
 - (ii) while the practitioner continued to practise the health profession.
- (2) The proceedings may be taken and findings may be made as if the practitioner were registered at the time the behaviour occurred.

- (3) Subsection (2) does not prevent a finding of unprofessional conduct on the basis the person was contravening a provision of Division 10 of Part 7, whether or not the person has been prosecuted for, or convicted of, an offence in relation to the contravention.
- (4) In this section—
behaviour includes—
 - (a) continuing to take or use a title protected under Subdivision 1 of Division 10 of Part 7 for a health profession; or
 - (b) continuing to undertake a practice protected under Subdivision 2 of Division 10 of Part 7 for a health profession.

139A—Application of Part to persons who were registered health practitioners

- (1) This section applies to a person who was, but is no longer, registered in a health profession under this Law.
- (2) A notification may be made under this Part about, and proceedings may be taken under this Part against, the person as if the person were still registered in a health profession under this Law in relation to behaviour that occurred while the person was registered.
- (3) For the purposes of subsection (2), this Part (other than Divisions 2 and 6) applies, with any necessary changes, to the person as if a reference to a registered health practitioner included that person.

139B—Application of Part to persons who were registered under corresponding prior Act

- (1) This section applies to a person who—
 - (a) was registered in a health profession under a corresponding prior Act; and
 - (b) is not, and has not been, registered in a health profession under this Law.
- (2) A notification may be made under this Part about, and proceedings may be taken under this Part against, the person as if the person were registered in a health profession under this Law in relation to behaviour that occurred while the person was registered under the corresponding prior Act.
- (3) However, subsection (2) applies only to the extent—
 - (a) a notification about the person’s behaviour could have been made under the corresponding prior Act; and
 - (b) proceedings could have been taken under the corresponding prior Act.

- (4) For the purposes of subsection (2), this Part (other than Divisions 2 and 7) applies, with any necessary changes, to the person as if a reference to a registered health practitioner included that person.

23—Insertion of sections 149A and 149B

After section 149 insert:

149A—Power to require information

- (1) For the purpose of conducting the preliminary assessment of a notification, a National Board may, by written notice given to a person, require the person to give specified information or produce specified documents to the Board within a specified reasonable time and in a specified reasonable way.
- (2) The person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty:

- (a) in the case of an individual—\$5,000; or
- (b) in the case of a body corporate—\$10,000.
- (3) Without limiting subsection (2), it is a reasonable excuse for an individual not to give information or produce a document if giving the information or producing the document might tend to incriminate the individual.

149B—Inspection of documents

- (1) If a document is produced to a National Board, the Board may—
- (a) inspect the document; and
- (b) make a copy of, or take an extract from, the document; and
- (c) keep the document while it is necessary for the preliminary assessment of a notification.
- (2) If the National Board keeps the document, the Board must permit a person otherwise entitled to possession of the document to inspect, make a copy of, or take an extract from, the document at the reasonable time and in the reasonable way decided by the Board.

24—Insertion of section 150A

After section 150 insert:

150A—Referral to other entities

- (1) If, after conducting the preliminary assessment of a notification, the National Board decides the subject matter, or part of the subject matter, of the notification may be dealt with by another entity, the Board may refer the notification or part of the notification to the other entity.

- (2) A decision by the National Board to refer a notification or part of a notification to another entity does not prevent the Board from continuing to deal with the notification or part of the notification.
- (3) If the National Board decides to refer a notification or part of a notification to another entity, it must give the other entity—
 - (a) a copy of the notification or, if the notification was not made in writing, a copy of the Board’s record of the details of the notification; and
 - (b) any other information the Board has that is relevant to the notification.
- (4) The National Board may ask the other entity to give the Board information about how the subject matter of the notification or the part of the notification was resolved.
- (5) The other entity may provide the information requested by the National Board.

25—Amendment of section 151—When National Board may decide to take no further action

- (1) Section 151(1)(e)(ii)—delete subparagraph (ii) and substitute:
 - (ii) has been referred by the Board under section 150 or 150A to another entity to be dealt with by that entity; or
- (2) Section 151 after subsection (1) insert:
 - (1A) A National Board may decide to take no further action in relation to part of a notification if the subject matter of the part of the notification has been referred by the Board under section 150 or 150A to another entity to be dealt with by that entity.

26—Insertion of Part 8 Division 7B

Part 8—after Division 7 insert:

Division 7B—Public statements

159P—Definition

In this Division—

relevant provision means any of the following provisions—

- (a) section 113;
- (b) sections 115 to 119;
- (c) sections 121 to 123;
- (d) section 133;
- (e) section 136.

159Q—Making of public statement

- (1) A regulatory body may make a public statement about a person if—
 - (a) the person—
 - (i) has, in the regulatory body’s reasonable belief, contravened a relevant provision; or
 - (ii) is the subject of an assessment, investigation or other proceedings under this Part; and
 - (b) the regulatory body reasonably believes that—
 - (i) because of the person’s conduct, performance or health, the person poses a serious risk to persons; and
 - (ii) it is necessary to issue a public statement to protect public health or safety.
- (2) A public statement made by a regulatory body may be made in a way the body considers appropriate.
- (3) The regulatory body may identify and give warnings or information about either or both of the following if the body considers it appropriate in the circumstances—
 - (a) a person;
 - (b) health services provided by a person.
- (4) No liability is incurred by the regulatory body for the making of, or for anything done for the purpose of making, a public statement under this section in good faith.

159R—Show cause process for public statement

- (1) If a regulatory body proposes to make a public statement about a person, the body must give the person a written notice that includes the following information—
 - (a) that the body proposes to make a public statement about the person;
 - (b) the way in which it is proposed to make the public statement;
 - (c) the content of the proposed public statement;
 - (d) that the person may make written or verbal submissions to the regulatory body, within the reasonable time stated in the notice, about the proposed public statement.
- (2) After considering any submission made by the person in accordance with the notice, the regulatory body must decide—
 - (a) not to make the public statement; or
 - (b) to make the public statement as proposed; or

- (c) to make the public statement in a different way or with different content.
- (3) The regulatory body must give written notice of the body’s decision, that includes the following information, to the person—
 - (a) the decision made by the body;
 - (b) the reasons for the body’s decision;
 - (c) if the decision is to make the public statement—
 - (i) that the person may appeal against the decision; and
 - (ii) how an application for an appeal may be made; and
 - (iii) the period within which the application must be made.
- (4) The regulatory body must give the notice to the person—
 - (a) as soon as practicable after the decision is made; and
 - (b) if the decision is to make the public statement—at least one business day before the statement is to be made.

159S—Revision of public statement by regulatory body

- (1) A regulatory body that made a public statement about a person may revise the statement if the regulatory body reasonably believes it is necessary in the circumstances.
- (2) If the proposed revision changes the public statement in a material way, sections 159Q(2) and (3) and 159R apply to the proposed revision, with any necessary modifications, as if it were the proposed making of a public statement.

159T—Revocation of public statement

- (1) A regulatory body that made a public statement about a person must revoke the public statement if the body is satisfied the grounds on which the statement was made—
 - (a) no longer exist in relation to the person; or
 - (b) did not exist at the time the statement was made.
- (2) As soon as practicable after deciding to revoke the public statement, the regulatory body must—
 - (a) give the person a written notice stating—
 - (i) the regulatory body has decided to revoke the public statement; and
 - (ii) the date on which the public statement will be revoked; and
 - (b) make a public statement revoking the original public statement in the same way, or a similar way, to the way in which the original public statement was made.

27—Amendment of section 178—National Board may take action

- (1) Section 178(1)(a)(iv)—delete "and" and substitute:
- or
- (v) a registered health practitioner's registration was improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular; and
- (2) Section 178(1)(b)—after "section 193" insert:
- , including because of a decision made under section 193A that it is not in the public interest

28—Amendment of section 179—Show cause process

- (1) Section 179(2)(b)—delete paragraph (b) and substitute:
- (b) do any of the following—
- (i) take the proposed relevant action or other relevant action;
- (ii) take other action under this Part;
- (iii) refer the matter to another entity, including, for example, a health complaints entity, for investigation or other action.
- (2) Section 179(3)—delete subsection (3)

29—Amendment of section 180—Notice to be given to health practitioner or student and notifier

Section 180(1)—delete "or 178(2), if section 179 does not apply"

30—Substitution of section 190

Section 190—delete the section and substitute:

190—Referral to responsible tribunal or National Board

- (1) A panel must stop hearing a matter and require the National Board that established the panel to refer the matter to a responsible tribunal under section 193 if, at any time—
- (a) the practitioner or student the subject of the hearing asks the panel for the matter to be referred to a responsible tribunal under section 193; or
- (b) if the subject of the hearing is a registered health practitioner—the panel reasonably believes the evidence demonstrates the practitioner may have behaved in a way that constitutes professional misconduct.

- (2) A panel must stop hearing a matter and refer the matter to the National Board that established the panel if the panel reasonably believes the evidence demonstrates the practitioner's registration may have been improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

31—Amendment of section 193—Matters to be referred to responsible tribunal

- (1) Section 193(1)—delete "A National Board" and substitute:

Subject to section 193A, a National Board

- (2) Section 193(1)(a)—delete paragraph (a) and substitute:

- (a) for a registered health practitioner, the Board reasonably believes, based on a notification or for any other reason, the practitioner has behaved in a way that constitutes professional misconduct; or

- (3) Section 193—after subsection (2) insert:

- (3) Subsection (1)(a) does not require a National Board to refer a matter to a responsible tribunal if the behaviour constituting the professional misconduct consists of a registered health practitioner improperly obtaining registration because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

Note—

See section 85C(b) which provides for the action a National Board may take if the Board decides a registered health practitioner's registration was improperly obtained.

32—Insertion of section 193A

After section 193 insert:

193A—National Boards may decide not to refer certain matters

- (1) A National Board may decide not to refer a matter about a registered health practitioner mentioned in section 193(1)(a) to a responsible tribunal if the Board decides there is no public interest in the matter being heard by a responsible tribunal.
- (2) In deciding whether or not there is public interest in the matter being heard by a responsible tribunal, the National Board must have regard to the following—
 - (a) the need to protect the health and safety of the public;
 - (b) the seriousness of the alleged conduct, including whether the registered health practitioner may have engaged in wilful misconduct;
 - (c) whether the practitioner is the subject of more than one notification or has previously been the subject of a notification;

- (d) whether the practitioner is still registered and, if not still registered, may again seek registration in the future;
 - (e) any other benefit the public may receive by having the matter referred to a responsible tribunal, including the benefit of a public decision in relation to the matter;
 - (f) any other matter the Board considers relevant to the decision.
- (3) If a decision is made under this section to not refer a matter to a responsible tribunal, the National Agency must publish information about the decision in its annual report.

33—Amendment of section 196—Decision by responsible tribunal about registered health practitioner

Section 196(4)—after paragraph (b) insert:

or

- (c) impose restrictions, either permanently or for a stated period, on the provision of any health service or a specified health service by the person.

34—Amendment of section 199—Appellable decisions

(1) Section 199(1)—after paragraph (a) insert:

- (aa) a decision by a National Board to withdraw the person’s registration;

(2) Section 199(1)—after paragraph (h) insert:

- (hb) a decision by a regulatory body to make or revise a public statement under Division 7B;

35—Amendment of section 200—Parties to the proceedings

Section 200—after paragraph (b) insert:

and

- (c) the National Agency if—
 - (i) the appellable decision is a decision mentioned in section 199(1)(ha) or (hb); and
 - (ii) the National Agency made the appellable decision.

36—Amendment of section 206—National Board to give notice to registered health practitioner's employer and other entities

Section 206(2)—delete subsection (2) and substitute:

- (2) If the practice information given to the National Board, or of which the Board becomes aware, is information referred to in paragraph (a) of the definition of *practice information* in section 132(4) and includes the names of other registered health practitioners, the Board, as soon as practicable after an event specified in subsection (1)(a) occurs, may give written notice of the decision to—
 - (a) the named registered health practitioners with whom the practitioner currently shares premises and the cost of the premises; and
 - (b) the named registered health practitioners with whom the practitioner previously shared premises and the cost of the premises if the Board reasonably believes the practitioner's health, conduct or performance while the practitioner shared the premises with the registered health practitioners posed—
 - (i) a risk of harm to a person or a class of persons; or
 - (ii) a risk to public health or safety.
- (3) If the practice information given to the Board, or of which the Board becomes aware, is information referred to in paragraph (b) of the definition of *practice information* in section 132(4), the Board, as soon as practicable after an event specified in subsection (1)(a) occurs—
 - (a) if the registered health practitioner has a current practice arrangement with an entity named in the information—must give written notice of the decision to the entity; or
 - (b) if the practitioner had a previous practice arrangement with an entity named in the information—may give written notice of the decision to the entity if the Board reasonably believes the practitioner's health, conduct or performance while the practitioner had a practice arrangement with the entity posed—
 - (i) a risk of harm to a person or a class of persons; or
 - (ii) a risk to public health or safety.
- (4) In this section—

decision means a decision of a National Board or adjudication body to take health, conduct or performance action against a registered health practitioner.

37—Insertion of sections 220A and 220B

After section 220 insert:

220A—Disclosure of information about registered health practitioners to protect health or safety of persons

- (1) This section applies if—
 - (a) because of a notification or an investigation under this Law, a National Board reasonably believes that—
 - (i) because of the registered health practitioner’s health, conduct or performance, the practitioner poses a serious risk to persons; and
 - (ii) it is necessary to give notice under this section to protect public health or safety; and
 - (b) the Board has been given practice information under section 132 or becomes aware of practice information the Board has the power to request under that section.
- (2) If the practice information given to the National Board, or of which the Board becomes aware, is information referred to in paragraph (a) of the definition of practice information in section 132(4) and includes the names of other registered health practitioners, the Board may give the following to the named registered health practitioners with whom the practitioner currently shares premises and the cost of the premises—
 - (a) written notice of the risk;
 - (b) any relevant information about the registered health practitioner.
- (3) If the practice information given to the National Board, or of which the Board becomes aware, is information referred to in paragraph (b) of the definition of practice information in section 132(4), the Board, as soon as practicable after receiving or becoming aware of the information, must give the following to a named entity that has a current practice arrangement with the registered health practitioner—
 - (a) written notice of the risk;
 - (b) any relevant information about the registered health practitioner.
- (4) To avoid doubt, subsections (2) and (3) do not allow the Board to give health information about a patient to—
 - (a) the named registered health practitioners with whom the practitioner currently shares premises and the cost of the premises; or
 - (b) the named entity that has a current practice arrangement with the practitioner.

- (5) Subsections (2) and (3) do not apply if the National Board decides it is not in the public interest to give the notice.

Examples—

A National Board may decide it is not in the public interest to give the notice because—

- (a) it would impact on an investigation into the registered health practitioner; or
 - (b) it would place a notifier at risk of harassment, harm or intimidation; or
 - (c) the public interest is outweighed by the registered health practitioner’s right to privacy.
- (6) Subsection (3) does not apply if the National Board has already notified the named entity about the practitioner, in relation to the same risk, under section 206 or another provision of this Law.
- (7) In this section—
- health information* has the same meaning as in the *Privacy Act 1988* of the Commonwealth.

220B—Disclosure of information about unregistered persons to protect health or safety of persons

- (1) This section applies if—
- (a) because of an investigation into a possible offence against Part 7, or a prosecution of an offence against that Part, the National Agency or a National Board reasonably believes that—
 - (i) an unregistered person poses a serious risk to persons; and
 - (ii) it is necessary to give notice under this section to protect public health or safety; and
 - (b) the unregistered person—
 - (i) is self-employed and shares premises and the cost of the premises with registered health practitioners; or
 - (ii) has a practice arrangement with an entity.
- (2) The National Agency or the National Board may give written notice of the risk, and any relevant information about the unregistered person, to the registered health practitioners or entities mentioned in subsection (1)(b).
- (3) To avoid doubt, subsection (2) does not allow the Board to give health information about a patient to the registered health practitioners or entities mentioned in subsection (1)(b).

(4) In this section—

health information has the same meaning as in the *Privacy Act 1988* of the Commonwealth.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 11 May 2023

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